



Kentucky's Voice for At-Risk Children and Families

November 26, 2014

Office of Health Policy
c/o Diona Mullins, Policy Advisor
Cabinet for Health & Family Services
275 E. Main Street, 4W-E
Frankfort, KY 40621



Dear Ms. Mullins,

SUBJECT: Comments on CON Modernization

On behalf of the Children's Alliance, an association of more than 30 private agencies that provide services to Kentucky's most vulnerable and at-risk children, I am submitting written comments in response to the Office of Health Policy's (OHP) Request for Stakeholder Input regarding "Certificate of Need Modernization: Core Principles". The Children's Alliance appreciates OHP's request for stakeholder input and our staff and membership look forward to being involved in the stakeholder listening sessions where we can discuss opportunities to improve the CON program prior to OHP undertaking any substantive revisions.

The Children's Alliance comments on the Certificate of Need Modernization: Core Principles include:

For almost 20 years, CONs for PRTFs remained available in certain rural parts of the state because of the legislative requirement for geographic diversity, but they were not applied for, perhaps because the professional staff required for a PRTF were not available in those locals or the infrastructure was not present. During that time, a statewide shortage of PRTF beds allowed established providers to operate their PRTF facilities at occupancy rates of almost 100%. This high occupancy rate allowed those PRTFs to meet expenses in spite of extremely low rate reimbursement increases (averaging only 1.1% a year over the 20 year period). However, the shortage of needed PRTFs beds resulted in long waiting lists for children needing these services and was part of the reason many Kentucky youth were sent to out-of-state facilities for services.

Kentucky Revised Statutes (KRS) were changed in 2010 to provide a new, more intensive and specialized PRTF service (PRTF IIs) and allow the remaining PRTF Level 1 CONs and the PRTF Level 2 CONs to be awarded regardless of location, which resulted in fierce and costly competition for those PRTF CONs, especially the remaining PRTF Level 1 CONs. Ironically, about the time these PRTF CONs were awarded, the state contracted with Managed Care Organizations (MCOs) for management of Medicaid services, including PRTF services.

420 Capital Avenue, Frankfort, Ky 40601
Phone: 502.875.3399 Fax: 502.223.4200

Quickly, the MCOs significantly decreased the authorized length of stays in the Level 1 PRTFs. Waiting lists for Level 1 PRTFs have mostly disappeared and the number of youth being sent to out-of-state psychiatric residential treatment facilities have plummeted. Unfortunately, it appears that shorter lengths of stay have resulted in an increase in readmissions to Level 1 PRTFs, but we do not have access to data to track this across all of the PRTFs. The lower census in existing PRTFs has understandably discouraged the holders of the hard won CONs for additional Level 1 PRTFs from opening them.

None of the newly authorized and awarded CONs for Level 2 PRTFs have been developed due to the changing landscape that has made the continued viability of PRTF Level 1 services questionable. Earlier this year Our Lady of Peace Hospital closed the two Level 1 PRTFs they were operating for Level 2 type patients because they could not meet expenses with the PRTF Level 1 reimbursement rates the MCOs were willing to pay.

The Children's Alliance supports the continuation of the CON process as it relates to PRTFs. Furthermore, it appears that more CONs have been awarded for Level 1 PRTFs than are currently needed, given the bed vacancies and lack of waiting lists for the Level 1 PRTFs in operation. Thus, we recommend that as CON authorizations are revoked or PRTFs closed, that the need for re-issuing these Level 1 PRTF CONs be carefully evaluated and not re-issued until warranted by sufficient demand. The Children's Alliance supports the CON process for PRTF services.

The Children's Alliance is also concerned that currently there is not a lower level of Medicaid out-of-home care services in Kentucky's continuum of care than hospitalization or PRTF services (i.e. residential or therapeutic foster care). We are concerned that the lack of a lower level of out-of-home care services results in a higher utilization of PRTF and hospitalization for children covered by Medicaid.

The Children's Alliance also recommends that OHP request, obtain and analyze data from the Department of Medicaid Services (DMS) regarding the frequency of Level 1 PRTF readmissions and psychiatric hospitalizations to determine if shorter lengths of stay in PRTFs have resulted in poorer outcomes for Kentucky's children. If this data is not currently available from DMS, then the Children's Alliance requests that DMS take the necessary steps to obtain this data.

The Children's Alliance is very concerned that the last PRTF CON process was very expensive. Based upon the experiences of some of our members, a lot of discretion rests with the trial judges, especially in regards to how fast or slow the process takes. The longer this process takes, the more expensive and frustrating it becomes for the agency seeking the CON(s). Therefore, we recommend that OHP consider ways to ensure a thorough, yet timely CON process that appropriately limits the trial judges' discretion.

Lastly, there is concern that the CON Board can revoke CONs that an agency paid dearly for. We request that OHP consider, evaluate and implement processes that would limit the expense of the CON process and the ability of the CON Board to revoke an agency's CONs.

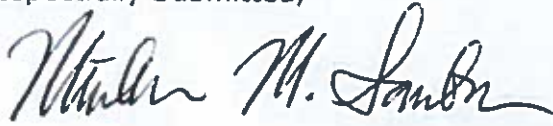
The Children's Alliance appreciates the opportunity to provide input on OHP's efforts to Modernize Kentucky's CON process. We look forward to being involved in the stakeholder listening sessions where we can discuss opportunities to improve the

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CON program. Please feel free to contact Kathy Adams, Director of Public Policy at 502-875-3399, ext. 104 or via email at kathy@childrensallianceky.org if you have questions related to these comments.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Michelle M. Sanborn". The signature is fluid and cursive, with the first name "Michelle" being more prominent and the last name "Sanborn" following in a similar style.

Michelle M. Sanborn, MSW
President

MS/ka